

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANJOHNA EVAN BRISCOE,

Defendant-Appellant.

UNPUBLISHED

December 19, 2006

No. 265107

Kent Circuit Court

LC No. 04-008733-FC

Before: Murphy, P.J., and Smolenski and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction for assault with intent to commit murder, MCL 750.83. Defendant was sentenced to 135 to 600 months' imprisonment. We affirm. This appeal is being decided without oral argument under MCR 7.214(E).

Defendant's sole argument on appeal is that the evidence presented at trial was insufficient to sustain his conviction. In reviewing a claim of insufficient evidence, this Court views the evidence in the light most favorable to the prosecution to determine whether a rational jury could find defendant guilty beyond a reasonable doubt. *People v Hardiman*, 466 Mich 417, 421; 646 NW2d 158 (2002). "The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Defendant claims that the prosecution did not present sufficient evidence of his state of mind such that a rational jury could find that he had the intent to kill at the time of the assault. Assault with intent to commit murder is a specific intent crime. *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005). The prosecution must prove that the defendant had the specific intent to kill and was not merely acting in such a way that could naturally produce great bodily harm. *Id.* at 148-149. A jury may draw inferences from any facts in evidence when deciding intent. *People v Taylor*, 422 Mich 554, 568; 375 NW2d 1 (1985). Factors to be considered include: how the defendant perpetrated the assault; the defendant's apparent temperament at the time of the assault; whether the instrument or weapon used to carry out the assault was "naturally adapted to produce death;" any statements made by the defendant before, during or after the assault; and any other circumstances which may reveal the defendant's intent. *Id.* The burden of proof to show intent is low; "minimal circumstantial evidence is sufficient." *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999).

Considering the evidence presented at trial, it is clear that a rational jury could have concluded that defendant had the intent to kill at the time of the assault. Defendant engaged in a heated exchange with the victim after which defendant immediately began assaulting the victim with a baseball bat. Defendant savagely hit a witness who tried to stop the assault before he was forcibly stopped by another witness. The witness who ultimately stopped the assault testified that, in his opinion, defendant would not have stopped assaulting the victim by his own accord and would have eventually killed the victim. Defendant initially directed his blows to the victim's face and head, a place where baseball bat blows would be more likely to cause death. Finally, the evidence revealed that defendant actually threatened the victim by stating, "I'm going to kill you." After the attack, in a police interview, defendant became agitated and angry while recounting the incident and he again threatened the victim's life. Therefore, we conclude that there was sufficient evidence for a reasonable jury to infer that defendant possessed the intent to kill.

Affirmed.

/s/ William B. Murphy
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly